

A PLAIN ENGLISH GUIDE FOR CITY EMPLOYEES AND ELECTED OFFICIALS: CONTRACTING WITH CITY GOVERNMENT



Do you own a business? Are you considering bidding on City contracts or subcontracts? City ethics laws do not flat-out prohibit City employees or elected officials from seeking or having City contracts or subcontracts, or from owning businesses that do. **But the laws impose severe restrictions, and the amounts allowed are very small. It is effectively a prohibition.**

This “Plain English Guide” will help you understand these restrictions. Note: the law applies to appointed City officials differently. Please see our Guide for Appointed City Officials for more information.

<https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/Appt-Official.pdf>

REMINDER: BEFORE you or your business enter into a contract, lease, etc. with the City—PLEASE SEEK CONFIDENTIAL ADVICE FROM THE BOARD OF ETHICS as to whether it is prohibited or “ethical.” No deal is worth your reputation or career.

WHAT CAN'T YOU DO? The City's Governmental Ethics Ordinance prohibits City employees and elected officials from having a “financial interest” in their own or another's name in any City contract, work or business, or in the sale of any item by the City*, if the contract, work, business or sale is paid with City-owned or administered funds or is authorized by City Ordinance.

“Financial interest” here means any **ownership** interest that entitles the owner to receive \$1,000 or more per year, or that is worth \$1,000 or more at present.

THIS MEANS THAT, AS A CITY EMPLOYEE OR ELECTED OFFICIAL, YOU CANNOT:

→ **Receive more than \$1,000 per calendar year from a City loan or grant program** unless the Commissioner of Planning & Development or Housing designate City employees or officials as “eligible,” or the City Council includes a provision exempting City personnel from this restriction;

→ **Sign an independent personal services contract with any City department, agency, or commission or board that entitles you to \$1,000 or more in a year;**

→ **Own* all or part of any business (whether a corporation, LLC, partnership, sole proprietorship, etc.) with a City contract, if your ownership interest in the business, when multiplied by the gross amount of the City contract or business, would be worth more than \$1,000.** Example: you are a City employee and own a $\frac{1}{3}$ interest in a paint supply company. One of your co-owners learns the City's Department of Assets, Information and Services needs an emergency supply of 5,000 gallons of weatherproof fluorescent lime green paint. Your company has the paint and can sell it to the City for \$3 per gallon, for immediate delivery. If one of your partners signs that contract (worth \$15,000) to sell paint to the City, you are in violation of the law. $\frac{1}{3}$ of \$15,000 is \$5,000—that would be your interest in this contract. That is more than \$1,000, thus it is a violation of the Ethics Ordinance, even if your actual income from this sale (after paying expenses, taxes, staff, etc.) comes to just \$100. The Board of Ethics looks at the *gross* amount of the City contract, *not* what you or your business actually derives in *net* income or profit;

→ **Lease property you own to the City, if the lease entitles you to \$1,000 or more during any year.** Example: say you own a 5% interest in a partnership or LLC that owns a commercial building. A City department wishes to rent space in that building from your partnership for \$50,000 per year. Your interest in the lease would be \$2,500 per year, for as long as the lease lasts ($5\% \times \$50,000$). You would be in violation of the law if the lease is signed—as your interest would entitle you to more than \$1,000 in a year.

→ **Own* all or part of a business that has or seeks a City subcontract (in which the names of the subcontractors are known to the City in advance) if that interest, when multiplied by the gross amount of the City contract, would be worth \$1,000 or more to you.** Example: you own 50% of a graphics firm. The N.E. Side Community Organization, a non-profit, seeks someone to create—for \$15,000—banners for its Summer event, and it's actually contracting on behalf of a Special Service Area (SSA), using money allocated to the SSA by the City Council, which approves all SSAs' budgets and subcontractors. If your graphics firm wins and signs this contract, you would have a \$7,500 ownership interest in a City subcontract—and be in violation of the law.

So how do you avoid these ethics problems? 1) have your business not enter into the City contracts or leases; or 2) sell your interest in the business; or 3) sell enough of your interest so that your interest in any or all City contracts and subcontracts amounts to less than \$1,000 in a year.

You will also need to disclose information about businesses you own on your annual Statement of Financial Interests.

EXCEPTIONS

Like many laws, this one has some exceptions:

- **Your relative's independent business may have a financial interest in City contracts, work or business.** If your daughter owns that paint firm, and it is her *independent* business, it *could* have that \$15,000 City contract. However, you may not try to help her business obtain that contract or manage it if it is awarded.

So how do you know whether a business is your relative's independent business? This is a fact-based test. Have you participated in the operation or management of the business? If yes, it is not independent. For example, did you recently own it and sell your ownership share to your daughter? Do you have authority to sign checks on the firm's behalf? Those are factors showing that the business is not independent. But, using your spouse's business's income for household expenses, or filing a joint tax return—those are not problems by themselves. (Note: under the City's Personnel Rules, spouses and domestic partners of Mayoral staff may not have interests in persons or firms with sister agency business.)

- **This prohibition applies only to contracts, work or business of the City of Chicago—not to contracts of "sister agencies."** Sister agencies include the Chicago Public Schools, CTA, CHA, Chicago Park District, Public Building Commission, MWRD, City Colleges, and Metropolitan Pier and Exposition Authority. These are legally separate entities from the City, established under different parts of state law. The City's ethics laws cover only City departments, agencies and commissions. **BUT NOTE: be careful with Public Building Commission contracts and subcontracts to build or renovate City-owned facilities, like Chicago Public Library properties, as these are typically paid with City funds and thus covered by the limits.**

- **If you own stock in PUBLIC companies with City contracts, you will not violate the ethics law**—as long as your stock is less than ½ of 1% (.5%) of the company's outstanding stock, even if your stock is worth more than \$1,000.

- **If the City is selling property through public notice and competitive bidding, you can buy it, regardless of the price.** Examples: the City sells taxicab medallions and some real estate through auctions, after placing notice in the newspapers and the internet. These sales qualify—you can buy medallions and real estate from the City *this* way, regardless of the cost.



***WHAT IF YOU'RE AN EMPLOYEE OF A BUSINESS WITH CITY CONTRACTS, BUT NOT AN OWNER?**

These restrictions on contracting with the City do **not** apply. They apply **only** to **ownership** interests. But, these **others** **do**:

→ This would be outside employment so you'd need to receive all required approvals before you begin (for example, from your department head or alderman).

And you could not:

→ Make, participate in or try to influence any City government decisions or matters that affect your outside employer or its City contract(s) or business;

→ Contact other City employees or officials on your outside employer's behalf;

→ Receive any compensation or money for advising or assisting your outside employer on matters involving City business unless those matters are "wholly unrelated" to your City job.

PENALTIES

City employees and officials who violate these prohibitions are subject to fines between \$1,000 and \$5,000, and employment sanctions, up to discharge or removal from office. The City can cancel any contract or subcontract awarded in violation of the Ordinance and sue for monetary damages. Names of persons determined to have violated the law are made public.

We've seen employees get into trouble over this. Don't chance it.



QUESTIONS? This guide is intended to help you understand the restrictions on owning a business seeking City contracts. ***It is not a substitute and should not be relied on for legal advice. For authoritative advice, please contact us.***

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